

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

FEARGAL MAC CONULADH,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO. 1:18-CV-06380
vs.)	
)	
ATARI GAMEBOX LLC,)	REPLY TO COUNTERCLAIM
)	
Defendant.)	
)	
<i>and related counterclaim</i>)	
_____)	

REPLY TO COUNTERCLAIM

Plaintiff FEARGAL MAC CONULADH (“Plaintiff”) hereby replies to the counterclaim (Docket No. 10, pages 6-9) filed by Defendant Atari Gamebox LLC (“Atari Gamebox”) as follows:

1. Plaintiff admits the jurisdictional and venue allegations incorporated in paragraph 1 of the counterclaim.
2. Plaintiff denies the allegations of paragraph 2.
3. Plaintiff admits that the operating agreement includes the words set out in paragraph 3. Plaintiff denies all remaining allegations, explicit or implicit, in paragraph 3
4. Plaintiff denies the allegations of paragraph 4.
5. Plaintiff denies the allegations of paragraph 5.

6. Plaintiff denies the allegations of paragraph 6.

7. Plaintiff denies the allegations of paragraph 7.

8. Plaintiff denies the allegations of paragraph 8.

9. Plaintiff denies the allegations of paragraph 9.

10. Plaintiff denies the allegations of paragraph 10.

11. Plaintiff denies the allegations of paragraph 11.

12. Plaintiff repeats and re-alleges the admissions and denials of paragraphs 1 through 11 of this Reply.

13. Plaintiff admits the allegations of paragraph 13.

14. Plaintiff denies the allegations of paragraph 14.

15. Plaintiff denies the allegations of paragraph 15.

16. Plaintiff repeats and re-alleges the admissions and denials of paragraphs 1 through 15 of this Reply.

17. Plaintiff admits that he agreed to lead the Atari VCS Project. Plaintiff denies that his agreement was solely related to or encapsulated by the operating agreement. Plaintiff denies any explicit or implicit allegation in paragraph 17 not expressly admitted herein.

18. Plaintiff denies the allegations of paragraph 18.

19. Plaintiff admits that the operating agreement did not provide for a salary. Plaintiff denies all remaining allegations, explicit or implicit, in paragraph 19.

20. Plaintiff denies the allegations of paragraph 20.

21. Plaintiff denies the allegations of paragraph 21.

Affirmative Defenses

1. Defendant fails to state a claim upon which relief can be granted.

2. Defendant's effort to recover monies from Plaintiff constitutes unjust enrichment.

3. Defendant's claims are barred by its own breaches of contract.

4. Defendant's claims are barred by its own wrongful conduct.

5. Defendant has failed to mitigate its alleged damages.

6. Defendant's claims and/or allegations are barred by principles of estoppel and/or unclean hands.

7. Defendant's claims and/or allegations are barred by Defendant's failure to fulfill one or more conditions precedent.

PRAYER

Wherefore, Plaintiff prays judgment against Defendant as follows:

1. for dismissal of the counterclaim with prejudice;
2. for compensatory damages in an amount to be determined at trial;
3. for declaratory relief as described in the Complaint;
4. for an order declaring Plaintiff the owner of all intellectual property associated with the Atari VCS project;
5. for prejudgment interest as permitted by law;
6. for postjudgment interest as permitted by law;
7. for costs of suit; and
8. for such other relief as the Court may deem proper.

Dated: August 28, 2018

Respectfully submitted,

s/ Richard J. Mooney

Richard J. Mooney (*pro hac vice*)

richard.mooney@rimonlaw.com

Rimon Law, P.C.

One Embarcadero Center, Suite 400

San Francisco, CA 94111

Telephone: (415) 683-4572

*Attorneys for Plaintiff FEARGAL MAC
CONULADH*